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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/765,221

Filing Date: January 18, 2001

Appellant(s): MORI, KAZUHIKO

Jeffrey S. Kapteyn (reg # 41,883)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/6/06 appealing from the Office action
mailed 6/2/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No other evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 5,093,794 to Howie et al. (Howie).

As to claim 1, Howie discloses a method for handling a manufacturing process (abstract) that receives content information related to the design of a manufactured item (claim 1, col 25, lines 17-21), receiving work schedule information that indicates a projected schedule as to when various stages are to be completed (claim 1, col 25, lines 22-25), receiving work progress information that indicates the actual progress of the manufactured item (col 3, lines 42-46, further shown in the "operations mode" in fig 2), receiving change order information (plan revisions as best seen in fig 2).

Howie does not, however, teach using the system for construction projects and further does not teach disclosing the information to an authorized user.

It would have been obvious to one of ordinary skill in the art to provide construction information to an authorized user (the customer, or client for whom the building is being built) so as to keep the customer apprised of the progress of the work. It further would have been obvious to one of ordinary skill in the art to use the system as

disclosed by Howie in construction settings as such settings require timing of the various stages of construction (i.e. pouring a foundation, building the frame, roofing the structure, painting the structure, flooring the structure etc.).

As to claims 15 and 29, Howie teaches a computer network (as best seen in fig 1) and further, a control and inquiry code executing system would be inherent in the system as Howie discloses the steps as being performed and therefore, there would have to be an executing system to perform the steps.

Howie does not, however, teach allowing a client computer to access the system. It would have been obvious to one of ordinary skill in the art to allow the customer to access the system to allow for access to the customer's file so the customer could track the work to avoid having the customer call the builder to ask for progress reports.

As to claims 2 and 16, Howie does not specifically teach requiring a password or other identification to access the system. It would have been obvious to one of ordinary skill in the art to modify the system as disclosed by Howie by requiring an identification number to access the system to avoid unauthorized access to the system.

As to claim 3 and 17, Howie teaches revising the work schedule when change order information impacts the projected schedule (col 7, lines 1-5).

As to claims 4 and 18, the project information includes profiles of those doing the work (fig 1, blocks under "Resource Broker" blocks).

As to claims 5 and 19, Howie discloses notifying the site superintendent (master scheduler) when work progress information is not received (fig 11).

Note: The original rejection included a typo as this was originally labeled, "As to claims 5 and 23".

As to claims 6 and 20, Howie does not disclose including an image of the part as it is being manufactured. It is very well known in the art for owners of houses being built to obtain images of the house in the various stages of it being built. Therefore, it would have been obvious to one of ordinary skill in the art to provide such images to increase customer satisfaction.

As to claims 7 and 21, it is very well known in the art to pay for services when they are completed, therefore, it would have been obvious to one of ordinary skill in the art to require images of completed work to ensure that work has been completed before payment is rendered.

As to claims 8 and 22, it would be inherent that it would be verified that the authorized user received the requested information as the computer would continue to attempt to provide the information if it was not verified.

As to claims 9 and 23, as is discussed above, Howie teaches requiring work schedule updates, therefore, it would have been obvious to one of ordinary skill in the art to request reports that are not received to ensure that they are received.

As to claims 10 and 24, it is very well known in the art for a building purchaser to view the building while under construction and for the contractor or builder to be there. Therefore, it would have been obvious to one of ordinary skill in the art to modify the system as disclosed by Howie by adding a scheduler to allow for the scheduling of customer visits.

As to claims 11 and 25, it would have been obvious to one of ordinary skill in the art to modify the system as disclosed by Howie by providing a warning when a building purchaser reports a building associated problem as otherwise construction could continue while a problem is not fixed. Further, a building related problem could relate to ability of the purchaser to pay for the building and the builder would want to know of such a circumstance.

As to claims 12 and 26, Howie discloses scheduling a correction of a problem (claim 8, col 27, lines 39-60).

As to claims 13 and 27, it would be inherent that the construction project information would include the location information of the site superintendent as this person is necessary for running the system.

As to claims 14 and 28, it would have been obvious to one of ordinary skill in the art to include contact numbers for the principals in the manufacture process in case it is necessary to contact them.

(10) Response to Argument

As to arguments in relation to claims 1 and 15, while Howie is not directed toward the exact, same process (home building), Howie is directed toward project completion and status reports involving the project so as to ensure that the project is completed and further, that the steps are completed in the proper order. Providing a customer with progress reports is old and well known in the art and the applicant has not asserted that they have invented that but that they have invented the process. As discussed in the rejection, Howie discloses the process. In response to applicant's argument, in relation

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to claims 1 and 15, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., input from clients) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The various machines as envisioned in Howie would be analogous to the various steps used in home building, such as pouring the foundation, framing the actual building, etc. which steps must be finished in order, just as the steps as envisioned by Howie. As to arguments in relation to claims 4 and 18, as discussed above, the Resource Brokers anticipate the claimed limitations as they profile those doing the work (by using the resources). As to arguments in relation to claim 5 and 19, notifying the scheduler meets the limitations as claimed. To give a homeowner pictures of their home in the various stages of completion is old and very well known, and thus, would be obvious. Paying a contractor for completed work is obvious as people are payed for work completed. As discussed above, Howie does teach receiving work progress reports and it is very well known in the art that if reports are not submitted for them to be requested to ensure that they are done. It is very well known in the art for home buyers to notify contractors that there is a problem, this would be used in any home-building process. Location information for the site superintendent would be obvious, if not necessary, as this person is in charge and it would be obvious to be able to contact the person in charge. Portable phones are very well known in any art and to carry one is obvious. The

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homebuilder system would be the manufacturer in Howie, the client system would be the home buyer.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

MF 



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Conferees:

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9/26/06